



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/159242

PRELIMINARY RECITALS

Pursuant to a petition filed July 21, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on August 20, 2014, at Milwaukee, Wisconsin. Post-hearing, the record was held open for 10 days for the Petitioner to submitted additional information regarding her change of address. No additional information was received.

The issue for determination is whether the Petitioner's appeal is timely and, if so, whether the agency properly discontinued healthcare benefits for the Petitioner's daughter effective May 1, 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Simone Johnson

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. On March 24, 2014, the agency issued a Notice of Decision to the Petitioner at her [REDACTED] Milwaukee address. The notice informed the Petitioner that health care benefits for her daughter would be discontinued effective May 1, 2014 due to Petitioner having access to health insurance for her through the Petitioner's employer. The notice further informed the Petitioner that if she wished to appeal the agency's determination, the deadline for filing an appeal was June 16, 2014.
3. Petitioner moved from the [REDACTED] address on February 15, 2014. Petitioner reported the change in address to the agency on June 30, 2014.
4. On July 21, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

A hearing officer can only rule on the merits of a case if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by an agency concerning Medicaid benefits must be filed within 45 days of the date of the action. Wis. Stat. § 49.45(5). The petitioner's appeal was filed 80 days after the date of the action.

The Petitioner testified that she notified the agency of her change in address in or about February, 2014. There is no record of a change report in the agency's documentation prior to June 30, 2014. The Petitioner did not present any evidence that demonstrates she reported the change prior to June 30, 2014. Thus, based on the evidence, I conclude the agency properly issued the March 24 Notice to the Petitioner and the Petitioner failed to submit a timely appeal. No jurisdiction exists for considering the merits of the case.

CONCLUSIONS OF LAW

The Petitioner's appeal is untimely.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 23rd day of September, 2014

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 23, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability